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Advisory Committee on Increasing
Competitive Integrated Employment
for Individuals with Disabilities
U.S. Department of Labor
Suite S-1303
200 Constitution Avenue, NW
Washington, DC 20210

Dear Committee Members:

As an organization with a long history of providing employment, services and supports to people with employment challenges, including those with disabilities, Goodwill Industries International, Inc. (GII), appreciates this opportunity to submit comments on the work of the Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities (the Committee).

While GII has commented previously both in oral and written testimony, we are writing to reiterate recommendations made specific to the charge of the committee and recommendations made in the interim report. According to its charge, the Committee was created to provide recommendations regarding:

- Ways to increase employment opportunities for individuals with intellectual or developmental disabilities or other individuals with significant disabilities in competitive integrated employment;
- The use of certificate program carried act under section 14(c) of the Fair Labor Standards Act (FLSA) for the employment of individuals with intellectual or developmental disabilities or other individuals with significant disabilities; and
- Ways to improve oversight of the use of such certificates.

Over the past few years, we have seen an increase in the number of states implementing Employment First policies. As a result, a number of states have created blueprints for increasing competitive integrated employment by moving away from center-based programs. The Home and Community Based Services Medicaid waiver rules require service providers to create more integrated programs. President Obama's Executive Order to increase wages for certain federal contractors extended to those individuals working under a special minimum wage certificate. The implementation of the Workforce Innovation and Opportunity Act will ensure that individuals, particularly youth, are aware of all of their employment options before considering work under a certificate. The Committee's recommendations will contribute to the progress that is being made, should be thoughtful to spur innovation and further dialogue, and, most importantly, be based in the reality of the barriers faced by individuals with significant disabilities and their family members when trying to secure competitive integrated employment.

In addition to the factors above, we have also seen a steady decline in the overall use of the certificate, including the number of community-based Goodwill® agencies holding certificates. GII applauds DOL Wage and Hour staff in making data on certificate use publicly available and, in more recent months, expanding the data to include the number of employees noted on the certificate. According to DOL, from April 2015 to October 2015, the number of Goodwills with certificates declined from 80 to 70, a 12.5 percent decrease.

The following is a compilation of the three most recent sets of data regarding certificate holders made publicly available by DOL’s Wage and Hour Division. Note that the term “subminimum wages” includes “commensurate wages,” and the number is based solely on what the employer reported on their most recent application. When an application is reviewed, WHD does not independently confirm the numbers provided.

	Total	CRP Holders	Business Holders	School Work Experience Programs	Patient Workers
October 2015	2691 2197 issued 494 pending	2391 1950 issued 441 pending	96 74 issued 22 pending	98 90 issued 8 pending	106 83 issued 23 pending
Number of Workers (Oct. 2015)	205,999	193,894	229	5,028	6,848
April 2015	2820 1961 issued 859 pending	2502 1737 issued 765 pending	107 60 issued 47 pending	95 74 issued 21 pending	116 90 issued 26 pending
November 2013	3315 1972 issued 1343 pending	2744 1636 issued 1108 pending	164 76 issued 88 pending	270 176 issued 94 pending	137 84 issued 53 pending

Unfortunately, the Committee as a whole has neither reviewed this information nor engaged in examining why the number of certificates in use has declined more than 15 percent since November 2013 (based on our review of public record). We are concerned that the Committee is making recommendations without considering available information on the certificate and maintains an incomplete understanding of the complexity of its use. The Committee should examine how these employers transitioned away from the certificate and, importantly, what happened to the individuals previously paid via the certificate. Are more people with disabilities who want to work being placed into non-work activities, or are they still earning a paycheck and feeling sense of dignity that comes along with having a job?

As noted in previous GII comments to the Committee, the most recent federal analysis of certificate use, a 2001 Government Accountability Office (GAO) report, indicated approximately 424,000 workers with disabilities were paid special minimum wages in 2000 by the more than 5,600 certificate holding employers. This decade and a half old study is informative but significantly outdated and should no longer be cited as a source for policy making or proposal development. GAO produced this report concurrent with the Rehabilitation Services Administration's regulatory change related to special minimum wage employment as acceptable outcomes for State Vocational Rehabilitation Agencies; the Social Security Administration was still struggling to issue regulations for the Ticket to Work program; and Medicaid Waiver demonstrations and Medicaid Infrastructure Grants related to integration had yet to begin in earnest.

Today's policy context is vastly different from 2001; there are new Medicaid Waiver expectations concerning integration, the rapid development of Employment First policy frameworks, and an expanding State Employment Leadership Network. These changes, along with evolutions in both the economy and the workplace, have led to a reduction of individuals compensated for work via the certificate. At the first meeting of the Committee, DOL staff noted there were approximately 151,000 people working under a special minimum wage certificate. The October 2015 data notes employers stated 205,999 individuals were paid under a certificate.

We believe the Committee should examine the following questions pertaining to the data:

- What factors contributed to the significant decline in certificate holders since 2001? How can those factors be leveraged to support more individuals moving into competitive integrated employment?
- Have more people moved into competitive integrated work, been receiving day services, or a combination of the two?
- How do Community Rehabilitation Providers (CRPs), school work experience programs, business certificate holders, and employers of patient workers utilize the certificate differently?
- How did organizations transition away from the use of a certificate? What was the experience of the individuals who had been paid utilizing the certificate?
- How did nearly 700 employers transition away from the certificate since November 2013?

Expanding Research Base

While the Committee and its subcommittees have utilized research to support its work, the scope of cited research has appeared limited. Notably, none of the subcommittee chapters reference a recently published case study undertaken by the CHIMES Foundation and researchers from George Washington University regarding the impact of Maine Public Law Chapter 101. This law directed state agencies to increase supported and integrated employment opportunities for people with disabilities and close its center-based programs. This report, Transitions: A Case Study of the Conversion from Sheltered Workshops to Integrated Employment in Maine, studied the experience of people with significant disabilities who were employed by sheltered workshops as well as providers who formerly operated center-based programs in Maine. The study found decreased employment and hours worked due to multiple factors including but not limited to: challenges with job placements; a cap on the number of hours worked per week; difficulty keeping jobs in the community; long wait times for vocational rehabilitation assessments; the

individual's age, and level of disability. This report's authors make a number of substantive and thoughtful recommendations for policy makers to consider when crafting transition plans to move away from sheltered to competitive integrated employment. These recommendations can equip the Committee to develop recommendations with the most current knowledge informing its work.

As a public document, the Committee's report should be inclusive of available data and be accurate in its citations and assertions. At least one of the citations in the report from the Capacity Building Subcommittee does not accurately describe section 511 of the Workforce Innovation and Opportunity Act. The citation states, "It also prohibits schools from contracting with a subminimum wage provider." The law actually states, "A local educational agency or a State educational agency cannot enter into a contract with an entity that employs individuals at subminimum wage *for the purpose of* operating a program under which a youth with a disability is engaged in subminimum wage employment." (emphasis added). Further, this chapter cites Vermont's statute prohibiting subminimum wages for people with disabilities. Unfortunately, the chapter chooses to highlight the prohibition for employers while ignoring the provisions allowing rehabilitation facilities to pay a subminimum wage rate or no wage for individuals with disabilities if they are in a practical experience/training program established by the commissioner. Inaccuracies or incomplete information erode the credibility of the Committee's recommendations.

All People Can Work

Our collective aspirations for people with significant disabilities include opportunities for choice, to earn wages, to reach their potential, to experience improved quality of life, and to achieve social acceptance and integration. Goodwill services are customized with and for the individual, including his or her support system, leverage community resources, and are delivered recognizing that the individual is both the leader of his or her service plan and a customer of Goodwill.

Working in a center-based environment or using the certificate is not the default placement option for those seeking employment and services with Goodwill. Some Goodwill agencies reported using the certificate as an employment tool in varied means. Some placed a time restriction on employment using the certificate; other agencies have a self-imposed wage floor; still others maintain a minimum productivity level for one to work using the certificate. Collectively, these agencies also provided nearly 630,000 instances of supported employment. While agencies may utilize the certificate in different manners, they share a common purpose of increasing employment opportunities and addressing the interests and needs of the individual.

The numbers of Goodwill agencies using the certificate and individuals working under the certificate have decreased over the years as agencies innovate new services and work with community partners. A group of 25 member Goodwill leaders meet regularly to discuss best practices and lessons learned as they transition away from the certificate and create additional integrated employment opportunities. Timing of transitions should be customized to address factors including but not limited to buy-in from employees and family members and how a transition can take place that does not take away an opportunity for an individual to work.

Creating Solutions Together

Goodwill Industries® was supportive of the bi-partisan agreement put forth by members of the Senate Health, Education, Labor and Pensions (HELP) Committee in the Workforce Innovation and Opportunity Act (WIOA). This agreement, Section 511 of the bill, focuses on transition-age youth with disabilities. Goodwill is optimistic that Section 511 will result in an increase in the number of transition-aged youth entering and succeeding in competitive integrated employment. Goodwill also supports policies that would increase employment-first initiatives and supported employment programs.

Goodwill Industries is supportive of a number of the draft recommendations being considered by the Committee, particularly those offered by the Transitions to Careers Subcommittee and the issues raised regarding transportation and other supports needed as identified by the Marketplace Dynamics Subcommittee. We also agree with the Capacity Building Subcommittee in stating that, in order to promote increased competitive integrated employment, there need to be new ways to pay for services and that states should be incentivized.

Given the focus of the Committee, Goodwill recommends the following:

- Increase penalties for those who misuse the special minimum wage certificate.
- Increase funding for the Wage and Hour Division to increase enforcement of the correct use of the special minimum wage certificate.
- Enhance data and record keeping.
- Ensure self-determination and informed choice.
- Develop career pathways/youth pathways.
- Limit certificate holders to accredited nonprofit employers defined as community rehabilitation providers (CRPs).
- Refine eligibility criteria for those who can work under a certificate.
- Examine the potential of a wage floor.
- Examine limiting use of the certificate for a specified time.
- Conduct a long-term study examining the impact to program participants following the closure of center-based programs.

In the spirit of creating solutions *together*, we feel it necessary to address the way in which some members of the Committee spoke about some of the panelists who offered their perspectives and experiences. Anyone going before the Committee or submitting comments should be treated with respect. Advocates are successful because they are passionate about their views, particularly when discussing the challenges faced by individuals with significant disabilities. However, both the advocacy community and the service providers (many of whom are also employers) agree more often than not and are working towards a common goal of increasing competitive integrated employment. All stakeholders want the laws to be followed and enforced, and that policy changes to be implemented in the best interest of the individual and family members.

As the Committee moves forward with its work to craft recommendations regarding ways to increase integrated competitive employment opportunities for people with disabilities, Goodwill remains committed to being a valuable resource and partner. On behalf of Goodwill Industries International and its network of 158 community-based Goodwill agencies in the United States, thank you for the opportunity to comment. Should you have any questions pertaining to Goodwill Industries' comments, please contact me at jim.gibbons@goodwill.org or 240-333-

5202, or Laura Walling, GII Director of Advocacy and Legislative Affairs, at laura.walling@goodwill.org or 240-333-5378.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Gibbons", with a long horizontal flourish extending to the right.

Jim Gibbons
President and CEO